

REMARKS

In connection with the Request for Continued Examination submitted concurrently herewith, along with a Petition for a one month extension of time, Applicant responds to the rejections of all pending claims made in the final Office Action mailed December 5, 2005.

In the final Action to which this document is responsive, the inventions of claims 1 and 3-25 are rejected as obvious by EP 0465203 A1 to Nielsen et al. when considered in combination with DE 19804418 A1 (DE '418) further evidenced by Weinle et al. (U.S. 4,840,832) and Sandstrom et al. (U.S. 6,379,497). As previously amended, claim 1 (against which only Nielsen et al. and DE '418 are applied) specifically requires a plurality of structural fibers and a plurality of bicomponent fibers coupled to the plurality of structural fibers. Each of the plurality of bicomponent fibers includes a core substantially surrounded by an outer polymer annulus. The melting point of the outer polymer annulus is significantly lower than the core and the plurality of structural fibers. The claim further requires that a portion of the plurality of structural fibers comprises one or more irregularly shaped fibers, and that the one or more irregularly shaped fibers have a melting point significantly higher than the outer polymer annulus.

Nielsen et al. describes a wet laid web containing (a) a bicomponent fiber having a polyester or polyamide fiber component and a linear low-density polyethylene component and (b) a matrix fiber made, for example, from glass fibers or polyester fibers. As acknowledged by the Examiner in the final Office Action, Nielsen et al. is "... silent to the use of irregular shaped fibers." Consequently, it certainly cannot teach that the irregularly

shaped fibers have a melting point significantly higher than an outer polymer annulus of the bicomponent fibers to which it is attached, as required by claim 1.

To allegedly address this shortcoming of Nielsen et al., the Examiner cites to DE '418. Unlike Nielsen et al., the DE '418 reference relates to a padded underlay for use with decorative and/or cladding material. Thus, Applicant contested the original rejection on the basis that a skilled artisan would not look to the padded underlay art for solutions in forming the admittedly novel surface veil being claimed.

In the final Action and then again in the Advisory Action, the Examiner expresses disagreement with this contention, citing various features of the padding disclosed in DE '418, such as "surface smoothness" and "good softness." However, this position overlooks the fact that a skilled artisan would not be led to the teachings of DE '418 in the first instance because it is from a completely different field of endeavor; namely, padded underlays as replacements for foam materials. Despite the identification of features in DE '418 that might be desirable for a surface veil, the Examiner fails to explain why a skilled artisan, wanting to solve the problems addressed by the present inventor (including to provide a surfacing veil that "offers desired surface appearance"), would look to the padded underlay art much less this reference for guidance. Relying on DE '418 in this manner, without any finding that the reference is within the same field of endeavor or reasonably pertinent to the problem to be solved by the inventor, puts the "obviousness" cart before the horse of "non-analogous" art.¹ Such a reverse analysis is clearly

¹ In re Bigio, 72 USPQ2d 1209 (Fed. Cir. 2004) ("Two separate tests define the scope of analogous prior art: (1) whether the art is from the same field of endeavor, regardless of the problem

improper under precedential case decisions, and results in a rejection that is invariably fraught with improper hindsight analysis. Accordingly, reconsideration of the final rejection based on the combination of Nielsen et al. and DE '418 is respectfully requested.

Regardless of whether the Examiner agrees that these references are not properly combinable, no substantial evidence whatsoever in the record establishes that the irregular fibers disclosed in DE '418 have a melting point significantly higher than the outer polymer annulus of the associated bicomponent fibers, as required by claim 1. Indeed, while the specific melting point of the "mantle" of the bicomponent fibers is mentioned in the Abstract (approx. 140°C), a full and careful review of the translation provided by the Examiner reveals that DE '418 fails to mention the melting point of the fibers allegedly qualifying as the claimed "irregular fibers."

As noted above, the Examiner admits that Nielsen et al. discloses no such "irregular" fibers. This means that the primary reference relied upon cannot possibly describe the claimed melting point condition and, as noted above, the secondary DE '418 reference fails to mention of a melting point for the irregular fibers. Consequently, even if these references are properly combinable, which Applicant disputes, they do not meet each and every limitation of the claims at issue. This means that a *prima facie* case of obviousness is lacking in the present record.² Accordingly, favorable

addressed and, (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved.").

² See MPEP § 2143.03 ("To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.").

reconsideration of the rejection of claim 1 based solely on the combination of Neilsen et al. and DE '418 is therefore respectfully requested.

With regard to claim 8, the additional reliance on U.S. Patent 6,379,497 to Sandstrom et al. fails to save the rejection of claim 1, or to support the lack of patentability of the corresponding invention. More particularly, claim 8 reads on a surfacing veil further comprising about 5 to 20 weight percent microspheres. Nielsen et al. clearly fails to teach or suggest the concept of incorporating microspheres into a wet laid web. Microspheres are also not mentioned anywhere in DE '418, either.

While Sandstrom et al. refers to microspheres, it is limited solely to microsphere use in cellulosic paperboard product, and is thus non-analogous. Regardless, none of the cited references teach or suggest the use of microspheres in a surfacing veil as set forth in present claim 8. Since microspheres expand upon heating, absent teachings to the contrary, one skilled in the art might expect microspheres to expand upon molding and print through the surfacing veil thereby producing an unusable product. There simply is no motivation in the cited references to lead one skilled in the art to utilize microspheres in a surfacing veil in the manner set forth in claim 8. Accordingly, this claim should be allowed.

Claims 19 and 23 refer to a surfacing veil wherein the outer polymer annulus comprises a low melt copolymer polypropylene. As acknowledged by the Examiner, the primary reference to Nielsen et al. fails to teach this concept. Similarly, polypropylene is not mentioned anywhere in DE '418. Recognizing this deficiency of the primary reference, the Examiner relies upon U.S. Patent 4,840,832 to Weinle et al. for this teaching.

However, Weinle et al. does not relate to surfacing veils. Therefore, it does not address the shortcomings noted above with respect to the failure of the primary reference to Nielsen et al. and the secondary DE '418 patent to teach or suggest the use of irregularly shaped fibers in surfacing veils. Accordingly, the cited references, even when considered in combination, fail to provide a proper basis for the rejection of claims 19 and 23, which should be allowed.

Furthermore, claims 21-23 require that the irregular structural fibers are glass fibers. Nielsen et al. concededly fails to teach irregular fibers, and the secondary DE '418 reference does not mention the use of irregularly shaped glass fibers in surfacing veils. Accordingly, neither of the references cited teach a limitation required by claims 21-23; namely, irregularly shaped glass fibers, which means that a *prima facie* case of obviousness is lacking.

Applicant also cancels withdrawn method claims 26-36 and in their stead presents new claims 37-48. New claim 37 depends from claim 1 and requires that the structural fibers are hollow. Like claims 21-23, new claim 38 requires that the structural fibers include a plurality of glass fibers. Since the cited references teach neither hollow structural fibers nor glass structural fibers that are irregular, these claims are believed to be directed to patentable inventions, regardless of their dependency on an allowable base claim.

New claim 39 reads on a conformable surfacing veil, comprising a plurality of structural fibers and a plurality of bicomponent fibers coupled to the structural fibers. The bicomponent fibers have a core substantially surrounded by an outer polymer annulus with a melting point significantly lower than the core and the plurality of structural fibers.

Characterizing the surface veil is the provision of one or more irregularly shaped structural fibers having a melting point at least 100 degrees Fahrenheit higher than the outer polymer annulus. Since none of the cited references teach or suggest the claimed temperature condition for irregular fibers in a conformable surfacing veil, claim 39 and dependent claims 40-43 are believed to be allowable as written.

New claim 44 reads on a conformable surfacing veil comprising a plurality of structural fibers and a plurality of bicomponent fibers coupled to the plurality of structural fibers. The plurality of bicomponent fibers have a core substantially surrounded by an outer polymer annulus having a melting point significantly lower than the core and the structural fibers. The veil further includes a plurality of microspheres. Dependent claims 45-46 add further details. Since none of the references teach a conformable surface veil including microspheres, it is believed that these claims should be held allowable as well.

Finally, new claim 47 requires a conformable surfacing veil with a plurality of structural fibers and a plurality of bicomponent fibers coupled to the plurality of structural fibers. The bicomponent fibers have a core substantially surrounded by an outer polymer annulus. The melting point of the outer polymer annulus is at least 100 degrees Fahrenheit lower than the melting point of the core and the plurality of structural fibers. New claim 48 requires that the structural fibers include irregular fibers. Again, none of the cited references disclose, teach, or suggest the claimed temperature limitation, so allowance of these claims is believed to be in order.

In summary, all the pending claims patentably distinguish over the prior art and should be formally allowed. Upon careful review and

reconsideration, it is believed the Examiner will agree with this proposition. Accordingly, withdrawal of the rejections and the early issuance of a formal Notice of Allowance is earnestly solicited to avoid the need for bringing this matter before the Board. The Commissioner is hereby authorized to charge any fees required to Deposit Account No. 50-0568 in connection with this Amendment.

Respectfully submitted,

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